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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,008	09/11/2003	Michael Thomas Riebe	PG3411US2	8593
23347	7590	07/18/2005	EXAMINER	
GLAXOSMITHKLINE CORPORATE INTELLECTUAL PROPERTY, MAI B475 FIVE MOORE DR., PO BOX 13398 RESEARCH TRIANGLE PARK, NC 27709-3398			EREZO, DARWIN P	
			ART UNIT	PAPER NUMBER
			3731	

DATE MAILED: 07/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/662,008

Applicant(s)

RIEBE ET AL.

Examiner

Darwin P. Erezzo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/646270.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/11/03; 4/2/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,253,762 to Britto in view of US 5,490,497 to Chippendale et al.

Britto teaches an aerosol container/inhalation device comprising a vial body containing an aerosol formulation of a medicament (fluticasone propionate; col. 2, lines 45-55) in a hydrogen-containing fluorocarbon liquid propellant (1,1,1,2-tetrafluoroethane; col. 4, lines 18-20) that is free of adjuvants; a valve 3 for dispensing a metered amount of the aerosol; wherein the valve is composed of non-fluorinated polymers (acetal; col. 4, line 57) and fluorinated polymers (PTFE; col. 4, line 67); wherein a part of the surface of the valve is in contact with the fluorinated polymer; wherein the polymer is plasma coated. Britto is silent with regards to the specifics of the valve.

Chippendale teaches a well-known valve in the art formed from plastic and comprising a valve body defining a metering chamber 2 configured to contain a metered amount of an aerosol formulation; a transfer passage 5 through which the metered amount of the aerosol formulation is able to pass from a vial body into the metering

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chamber; and dispensing means 6 which enables the metered amount of the aerosol formulation to be dispensed from the metering chamber.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the valve of Chippendale in the device of Britto because a valve having a metering valve, transfer passage and dispensing means is well known in the art and would be usable with the invention of Britto. Furthermore, Britto teaches the process of coating the internal surfaces of any well known canisters having a metering valve.

As to claims 2 and 13, Britto is silent with regards to the weight percentage of the fluorinated polymer. However, Britto teaches that the fluorinated polymer is coated onto the valve formed from non-fluorinated polymer. Therefore, it would have been obvious to one of ordinary skill in the art to provide a coating of about 5% weight of the valve since discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

As to claims 5 and 16, it should be noted that the claims are directed towards a product by process claim, therefore, the claim is not limited to the manipulation of the recited step, only the structure implied by the step.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darwin P. Erez who whose telephone number is (571) 272-4695. The examiner can normally be reached on M-F (7:30-4:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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GLENN K. DAWSON  
PRIMARY EXAMINER